

## TERMS AND CONDITIONS OF BUSINESS

*Ramsden Purchasing Ltd t/as Essential Sourcing*

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### 1. General

- 1.1 These terms and conditions apply to work that you have instructed us to carry out. Together with our engagement letter they form our contract with you (the contract).
- 1.2 If there are any inconsistencies between these terms and conditions and our engagement letter, the engagement letter will prevail.
- 1.3 Unless we agree otherwise with you, these terms and conditions will apply to any future instructions you give us. We will notify you about any substantive changes to terms and conditions during the period that we are working with you.
- 1.4 Your continuing instructions confirm that you accept these terms and conditions but please sign and date the copy of our engagement and return it to us immediately. This will help us to be confident that you understand the basis on which we will act for you.
- 1.5 These Conditions apply to the exclusion of any other terms that you seek to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.
- 1.6 Interpretation  
**We or us or our:** refers to Ramsden Purchasing Ltd t/as Essential Sourcing  
**You or your:** refers to you as the instructing client or clients on a matter  
**A reference to a party or parties:** is a reference to you or us or both

### 2. Services

- 2.1 We shall provide the services as agreed with you and as described within the engagement letter (the Services). It is your responsibility to ensure that any information, specification or requirements provided to us are accurate.
- 2.2 We shall use all reasonable endeavours to meet any performance timeframes specified, but any such dates shall be estimates only and time shall not be of the essence for our performance of the services.
- 2.3 We reserve the right to make changes to the agreed services if necessary, in order to comply with any applicable law or regulatory requirement. We will notify you of any changes.
- 2.4 We shall use reasonable care and skill in providing the agreed services to you.

### 3. Your Obligations

- 3.1 You shall:
  - (a) ensure that the engagement letter, instructions and any information provided to us are complete and accurate;
  - (b) co-operate with us in all matters relating to the contract;
  - (c) comply with all applicable laws, including but not limited to health and safety laws, trading laws, intellectual property laws;
  - (d) comply with any additional obligations under the Contract or law; and
  - (h) provide payment to us in accordance with these Terms and Conditions.

- 3.2 If our performance of any of our obligations under the contract is prevented or delayed by any act or omission by you or failure by you to perform any relevant obligation (Default):
- (a) without limiting or affecting any other right or remedy available to us, we shall have the right to suspend performance of the contract until you remedy your Default, and to rely on your Default to relieve us from the performance of any of our obligations in each case to the extent your Default prevents or delays our performance of any of our obligations;
  - (b) we shall not be liable for any costs or losses sustained or incurred by you arising directly or indirectly from our failure or delay to perform any of our obligations as set out in this clause; and
  - (c) you shall reimburse us on written demand for any costs or losses sustained or incurred by us arising directly or indirectly from your Default.

#### **4. Charges and Payment**

- 4.1 You shall pay each invoice submitted by us within 14 days of the date of the invoice and in full and in cleared funds to a bank account nominated by us.
- 4.2 All amounts payable by you are exclusive of amounts in respect of value added tax chargeable from time to time (VAT).
- 4.3 If you fail to make a payment due to us by the due date, then, without limiting our remedies, you shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest will accrue at a rate of 8% a year above the Bank of England's base rate from time to time, but at 8% a year for any period when that base rate is below 0%. In addition, you shall pay late payment fees to be charged at the maximum permitted under the Late Payment Directive at the time of the dispute, and any recovery costs incurred.
- 4.4 All amounts payable by you shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).
- 4.5 We shall be entitled to charge you for any additional services and for expenses reasonably incurred by the individuals whom we engage in connection with our contract with you including travelling expenses, hotel costs, subsistence and any associated expenses, and for the cost of services provided by third parties and required by us for the performance of the contract, and for the cost of any materials.
- 4.6 We reserve the right to increase our charges and fees on an annual basis.

#### **5. Intellectual Property Rights**

- 5.1 All Intellectual Property Rights in or arising out of or in connection with the contract (other than Intellectual Property Rights in any materials provided by you or Rights acquired by you in relation to the products) shall be owned by us.
- 5.2 We grant to you or shall procure the direct grant to you of, a fully paid-up, worldwide, non-exclusive, royalty-free licence during the term of the contract to use our materials (excluding materials provided by you or by any third party) for the purpose of receiving and using the services under our contract with you.
- 5.3 You shall not copy, otherwise reproduce, distribute or amend any materials provided to you by us.
- 5.4 You shall not sub-license, assign or otherwise transfer the rights granted under these Terms and Conditions.

- 5.5 You grant to us a fully paid-up, non-exclusive, royalty-free, non-transferable licence to copy and modify any materials provided by you to us for the term of the contract for the purpose of providing the services to you.

## **6. Data Protection**

- 6.1 The parties will comply with all applicable requirements of the UK General Data Protection Regulation, the Data Protection Act 2018, and other relevant data protection legislation.
- 6.2 The parties acknowledge that for the purposes of applicable data protection legislation, we are the controller and processor in respect of personal data we hold, and shall comply with our obligations accordingly.
- 6.3 By accepting these Terms and Conditions you accept that the information you provide to us will be used in connection with our carrying out the services according to our contract with you, and that from time to time it may be necessary for us to share information with third parties who may be required in the course of our contract with you and in delivering our services to you. In addition, we may be legally obliged to share information provided by you.
- 6.4 The way in which we collect, use, store and protect personal data is set out in our Privacy Policy, available at [www.essential-sourcing.co.uk](http://www.essential-sourcing.co.uk). Where services involve the transfer of personal data outside the United Kingdom, we will ensure appropriate safeguards are in place in accordance with applicable data protection law.

## **7. Limitation of Liability**

- 7.1 The restrictions on liability in these Terms and Conditions apply to every liability arising under or in connection with our contract with you including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.
- 7.2 Neither party may benefit from the limitations and exclusions set out in this clause in respect of any liability arising from its deliberate default.
- 7.3 Nothing in the Contract limits any liability which cannot legally be limited, including but not limited to liability for:
- (a) death or personal injury caused by negligence; and
  - (b) fraud or fraudulent misrepresentation.
- 7.4 We will not be liable for any loss, damage, cost or expense arising in any way from your (to include your directors, trustees, members, employees or agents):
- (a) fraudulent acts, misrepresentations or wilful default;
  - (b) failure to properly advise us or give us the correct information; or
  - (c) delay in instructing us or providing us with information that we request.
- 7.5 Subject to clause 7.4, the following are wholly excluded by the parties:
- (a) loss of profits;
  - (b) loss of sales or business;
  - (c) loss of agreements or contracts;
  - (d) loss of anticipated savings;
  - (e) loss of use or corruption of software, data or information;
  - (f) loss of or damage to goodwill; and
  - (g) indirect or consequential loss.

- 7.6 Unless you notify us that you intend to make a claim in respect of an event within the notice period, we shall have no liability for that event. The notice period for an event shall start on the day on which you became, or ought reasonably to have become, aware of the event having occurred and shall expire 12 months from that date. The notice must be in writing and must identify the event and the grounds for the claim in reasonable detail.
- 7.7 This clause 7 shall survive termination of the contract.

## **8. Risk and Title**

- 8.1 Any third parties who we recommend, or whose information we may provide to you, are instructed by you separately and any contract you may enter into with any such third parties does not form part of the Services or the Contract with you. Such third parties may include, but are not limited to suppliers, freight forwarders, foreign exchange providers, buyers, manufacturers and distributors.
- 8.2 We accept no responsibility for any third party instructed by you, whether or not we have supplied you with that third party's details or not. This remains the case even where we may receive a referral fee from a third party.
- 8.3 Further to clauses 8.1 and 8.2 above, we accept no liability for risk of damage to, or loss of goods, any loss and damage caused should goods not be received as expected or as described in terms of their description, quality or compliance with legislation, including but not limited to health and safety legislation.
- 8.4 Should you choose to obtain a sample of goods, examination and approval of any sample is your responsibility alone. We do not accept any liability associated with your decision. Likewise, any specification will be approved by you alone and we do not accept any responsibility for the same.
- 8.5 Upon you placing a purchase order following the completion of the sourcing and project discovery stages, you and/or any company through which any order is made, assume ownership of the goods and are responsible for, and accept all risks associated with, the goods and their distribution.
- 8.6 Where there is a requirement for you to take action which is outside the scope of the contract, including to maintain compliance with any relevant legislation, we shall not be liable for any loss or damage arising from your failure to take such action.
- 8.7 We shall carry out the Services in accordance with the Contract, acting only as agent and as such accept no responsibility for your actions or those of your company to which the Services relate.

## **9. Termination**

- 9.1 Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:
- (a) the other party commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 14 days of that party being notified in writing to do so;
  - (b) the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to

- carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
- (c) the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
  - (d) the other party's financial position deteriorates to such an extent that in the terminating party's opinion the other party's capability to adequately fulfil its obligations under the contract has been placed in jeopardy.
- 9.3 Without affecting any other right or remedy available to it, we may terminate the contract with immediate effect by giving written notice to you if you fail to pay any amount due under the contract on the due date for payment.
- 9.4 Without affecting any other right or remedy available to it, we may suspend the supply of services under the contract or any other contract between you and us if you fail to pay any amount due under the contract on the due date for payment, you become subject to any of the events listed in clause 9.1(b) to clause 9.1(d), or we reasonably believe that you are about to become subject to any of them.

## **10. Consequences of Termination**

- 10.1 On termination of the contract you shall immediately pay to us all of our outstanding unpaid invoices and interest and, in respect of services supplied but for which no invoice has been submitted, we shall submit an invoice, which shall be payable by you immediately on receipt.
- 10.2 Termination or expiry of the contract shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the contract which existed at or before the date of termination or expiry.
- 10.3 Any provision of the contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the contract shall remain in full force and effect.

## **11. Fraud and Cybercrime**

Please do not rely on bank details sent to you via email, even if it seems to have come from us, without checking with us first. Please note that we do not send notifications of changes to our bank details by email. If you receive any communication that appears to come from us providing different bank details to the ones we have previously supplied when we requested funds from you, or indicating a change in our bank details, please contact us. We will not accept responsibility if you transfer money into an incorrect account.

## **12. Force Majeure**

Neither party shall be in breach of the contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control.

## **13. Assignment and Other Dealings**

- 13.1 We may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of our rights and obligations under the contract.
- 13.2 You shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of your rights and obligations under the contract without our prior written consent.

#### **14. Confidentiality**

- 14.1 Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or service providers of the other party, except as permitted by clause 14.2.
- 14.2 Each party may disclose the other party's confidential information:
- (a) to its employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under the Contract. Each party shall ensure that its employees, officers, representatives, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 14.2; and
  - (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
  - (c) Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under the Contract.

#### **15. Entire Agreement**

- 15.1 The contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 15.2 Each party acknowledges that in entering into the contract it does not rely on, and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in the contract.
- 15.3 Nothing in this clause shall limit or exclude any liability for fraud.

#### **16. Variation**

Except as set out in these Terms and Conditions, no variation of the contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

#### **17. Waiver**

A waiver of any right or remedy under the contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A failure or delay by a party to exercise any right or remedy provided under the contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy

provided under the contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.

**18. Severance**

If any provision or part-provision of the contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause 18 shall not affect the validity and enforceability of the rest of the Contract.

**19. Notices**

Any notice given to a party under or in connection with the contract shall be in writing and shall be sent by email to the addresses specified by the parties.

**20. Third Party Rights**

Unless it expressly states otherwise, the contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

**21. Governing Law and Jurisdiction**

- 21.1 The contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by, and construed in accordance with the law of England and Wales.
- 21.2 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.

Please sign and date below to indicate acceptance of the terms.

Signed .....

Printed .....

Dated .....